IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION APPLICATION NO. 140 OF 2005

M/s. Jain Brothers ..Applicant

Vs.

Union of India ..Respondent

Mr. Rakesh K. Singh i/b G.L. Masand for applicant.
Mr. Suresh Kumar for respondent.

CORAM : B. H. MARLAPALLE,J.

Date : March 03, 2006.

P.C.:

1. Heard. It is clear that this Arbitration Application is in the second round in as much as Arbitration Application No.84 of 2004 was already decided by this court on 6/7/2004 and the respondent i.e. the General Manager, Western Railway was directed to appoint the Arbitrator in accordance with the contract between the parties within a period of six weeks. It appears that no steps were taken by the General Manager, Western Railway in compliance with the order passed by this court and, therefore, the applicant approached afresh by filing this application on or about 8/8/2005.

2. Mr. Suresh Kumar the learned counsel for the respondent has now placed on record a copy of the

order dated 12/1/2006 and from the same it is clear that the General Manager, Western Railway has appointed Mr. S.K. Kulshreshtha, Chief Track Engineer, Western Railway, Churchgate as the Presiding Arbitrator and the contractor's nominee i.e. the present applicant's nominee is Mr. H.R. Meena, Chief Material Manager (C & S), Western Railway, Churchgate. Mr. P.S. Tendulkar, Financial Adviser and Chief Accounts Officer (T), Churchgate has been appointed as the nominee of the Department. Thus, it is clear that the arbitral Tribunal has been constituted by the respondent as directed by this court vide the order dated 6/7/2004, though belatedly. A copy of the order passed on 12/1/2006 by the respondent has already been handed over to Mr. Singh h/f Mr. Masand, the learned counsel for the applicant. Mr. Suresh Kumar further states that Mr. H.R. Meena has been appointed as the contractor's nominee as per the choice recorded by the contractor by a written communication.

3. As the arbitral Tribunal has been now constituted, this application need not be entertained under Section 11 of the Act and the same is disposed as infructuous.

(B.H. Marlapalle, J.)